

AMENDED IN ASSEMBLY JUNE 28, 2006

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 212

Introduced by Senator Lowenthal

February 10, 2005

An act to repeal Section 103900 of the Health and Safety Code, and to *amend and repeal Section 12818 of, and to add Article 6* (commencing with Section 13010) to Chapter 1 of Division 6 of, the Vehicle Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 212, as amended, Lowenthal. Lapses of consciousness: reports to the Department of Motor Vehicles.

~~(1) Under~~

Under existing law, a physician and surgeon is required to report immediately to the local health officer in writing, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a disorder characterized by lapses of consciousness. Existing law requires the State Department of Health Services, in cooperation with the Department of Motor Vehicles, to define disorders characterized by lapses of consciousness, and to include within the defined disorders Alzheimer's disease and related disorders that are severe enough to be likely to impair a person's ability to operate a motor vehicle. Existing law further requires the local health officer to provide this information to the Department of Motor Vehicles, for the information of that department in enforcing the Vehicle Code.

This bill would delete the existing provisions and instead would authorize a physician and surgeon to report to the Department of Motor Vehicles (DMV) in good faith specified information relating to a patient at least 15 years of age, or 14 years of age if the patient has a conditional license, whom the physician and surgeon has diagnosed as having suffered a lapse of consciousness, ~~or has a disorder or medical condition that may affect the person's ability to drive safely if the physician and surgeon reasonably believes that reporting the patient will serve the public interest.~~

This bill would require a physician and surgeon to report specified information to the DMV, in writing, regarding *certain* patients the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder, or with a disorder characterized by lapses of consciousness ~~that might be recurrent, or with an impairment or disorder that compromises the patient's ability to safely operate a motor vehicle within the previous 6 months, as specified.~~ The bill would excuse a physician and surgeon from these mandatory reporting requirements relating to lapse of consciousness disorders under designated circumstances.

~~This bill would require the State Department of Health Services, in cooperation with the DMV, to define disorders characterized by lapses of consciousness for purposes of the bill, and to review and update the definition as necessary. The bill would also require the department, in consultation with certain professional medical organizations, to review and update its existing guidelines for enhancing the monitoring of patients afflicted with the disorders referred to in the bill. The bill would require reports made pursuant to the bill to be kept confidential. It would exempt a physician and surgeon from civil and criminal liability for making a report authorized or required by the bill. The bill would require the department, upon receipt of a report made pursuant to the bill, to make a determination to revoke or suspend a license based on the evaluation and assessment provided by the reporting physician, and to require a road examination for certain licensees.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 103900 of the Health and Safety Code
- 2 is repealed.

1 *SEC. 1.5. Section 12818 of the Vehicle Code, as amended by*
2 *Section 13 of Chapter 985 of the Statutes of 2000, is repealed.*

3 ~~12818. (a) Upon receipt of a request for reexamination and~~
4 ~~presentation of a legible copy of a notice of reexamination by a~~
5 ~~person issued the notice pursuant to Section 21061, or upon~~
6 ~~receipt of a report from a local health officer issued pursuant to~~
7 ~~subdivision (b) of Section 103900 of the Health and Safety Code,~~
8 ~~the department shall reexamine the person's qualifications to~~
9 ~~operate a motor vehicle, including a demonstration of the~~
10 ~~person's ability to operate a motor vehicle as described in~~
11 ~~Section 12804.9.~~

12 ~~(b) Based on the department's reexamination of the person's~~
13 ~~qualifications pursuant to subdivision (a), the department shall~~
14 ~~determine if either of the following actions should be taken:~~

15 ~~(1) Suspend or revoke the driving privilege of that person if~~
16 ~~the department finds that any of the grounds exist which~~
17 ~~authorize the refusal to issue a license.~~

18 ~~(2) Restrict, make subject to terms and conditions of~~
19 ~~probation, suspend, or revoke the driving privilege of that person~~
20 ~~based upon the records of the department as provided in Chapter~~
21 ~~3 (commencing with Section 13800).~~

22 ~~(c) As an alternative to subdivision (a), the department may~~
23 ~~suspend or revoke the person's driving privilege as provided~~
24 ~~under Article 2 (commencing with Section 13950) of Chapter 3.~~

25 ~~(d) Upon request, the department shall notify the law~~
26 ~~enforcement agency which employs the traffic officer who issued~~
27 ~~the notice of reexamination described in subdivision (a) of the~~
28 ~~results of the reexamination.~~

29 ~~(e) This section shall remain in effect only until January 1,~~
30 ~~2011, and as of that date is repealed, unless a later enacted~~
31 ~~statute, that is enacted before January 1, 2011, deletes or extends~~
32 ~~that date.~~

33 *SEC. 2. Section 12818 of the Vehicle Code, as added by*
34 *Section 14 of Chapter 985 of the Statutes of 2000, is amended to*
35 *read:*

36 12818. (a) Upon receipt of a request for reexamination and
37 presentation of a legible copy of a notice of reexamination by a
38 person issued the notice pursuant to Section 21061, the
39 department shall reexamine the person's qualifications to operate

1 a motor vehicle pursuant to Section 13801, notwithstanding the
2 notice requirement of Section 13801.

3 (b) Based on the department's reexamination of the person's
4 qualifications pursuant to subdivision (a), the department shall
5 determine if either of the following actions should be taken:

6 (1) Suspend or revoke the driving privilege of that person if
7 the department finds that any of the grounds exist which
8 authorize the refusal to issue a license.

9 (2) Restrict, make subject to terms and conditions of
10 probation, suspend, or revoke the driving privilege of that person
11 based upon the records of the department as provided in Chapter
12 3 (commencing with Section 13800).

13 (c) As an alternative to subdivision (a), the department may
14 suspend or revoke the person's driving privilege as provided
15 under Article 2 (commencing with Section 13950) of Chapter 3.

16 (d) Upon request, the department shall notify the law
17 enforcement agency ~~which~~ *that* employs the traffic officer who
18 issued the notice of reexamination of the results of the
19 reexamination.

20 ~~(e) This section shall become operative on January 1, 2011.~~
21 *Upon receipt of a report made pursuant to Section 13010 or*
22 *13011, the department shall make a determination to revoke or*
23 *suspend a license based upon the evaluation and assessment*
24 *provided by the reporting physician and surgeon and the factors*
25 *enumerated in Section 110.01 of Title 13 of the California Code*
26 *of Regulations. The department shall require a road*
27 *examination, as described in Section 12804.9, for any licensee*
28 *reported pursuant to subdivision (a) of Section 13011. For any*
29 *other licensee reported pursuant to Section 13010 or 13011, the*
30 *department may, at its discretion, require a road examination.*

31 SEC. 3. Article 6 (commencing with Section 13010) is added
32 to Chapter 1 of Division 6 of the Vehicle Code, to read:

33
34 Article 6. Physician and Surgeon Reporting of Medical
35 Conditions
36

37 13010. (a) A physician and surgeon may report immediately
38 to the Department of Motor Vehicles, in writing, the name, date
39 of birth, and address of every patient at least 15 years of age or
40 older, or 14 years of age if the person has a provisional license,

whom the physician and surgeon has diagnosed as having a disorder characterized by lapses of consciousness, if a physician and surgeon reasonably and in good faith believes that reporting the patient will serve the public interest. The physician and surgeon may report a patient's condition even if it may not be required under the department's definition of disorders characterized by lapses of consciousness pursuant to this article.

(b) A physician and surgeon who reports a patient pursuant to this article shall contemporaneously complete and transmit to the department the form prepared by the department for this purpose, and shall address each of the factors specified in Section 110.01 of Title 13 of the California Code of Regulations of which the physician and surgeon has knowledge. On or before January 1, 2008, the physician reporting form shall be developed by the department to incorporate the factors contained in Section 110.01 of Title 13 of the California Code of Regulations. This form shall be made available for downloading at the forms page on the department's official Internet Web site for use by all physicians and surgeons.

(c) The reports transmitted pursuant to this article shall be for use by the department only, and shall be kept confidential and used solely by the department for the purpose of determining the eligibility of any person to operate a motor vehicle on the highways of this state, or for the purpose of a bona fide research project, if the data is solely provided by the department in anonymous form.

(d) A physician and surgeon shall not be civilly or criminally liable to the reported patient for making any report required or authorized by this section.

(e) For purposes of this section, "disorders characterized by lapses of consciousness" shall be those disorders provided for in Section 2806 of Title 17 of the California Code of Regulations.

13011. (a) A physician and surgeon shall report immediately to the department, in writing, the name, date of birth, and address of every patient at least 15 years of age, or 14 years of age if the patient has a conditional license, whom (1) the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder; or (2) the physician and surgeon has diagnosed as suffering from a single lapse of consciousness within the previous six months, if the patient suffers from a

1 disorder identified in Section 2806 of Title 17 of the California
2 Code of Regulations, and the physician or surgeon believes, in
3 his or her professional judgment, that the risk of recurrence is
4 sufficient to pose a threat to public safety; or (3) the physician
5 and surgeon has diagnosed the patient as previously suffering
6 multiple lapses of consciousness, and whose medical condition is
7 identified in Section 2806 of Title 17 of the California Code of
8 Regulations, if substantial medical evidence suggests a
9 recurrence of a lapse of consciousness or that the condition
10 adversely affects the patient's ability to operate a motor vehicle.

11 (b) A physician and surgeon is not required to make a report
12 pursuant to this section if any of the following occurs:

13 (1) Within the previous six months, the physician and surgeon
14 previously made a report pursuant to this section for this patient,
15 and the condition has not substantially changed.

16 (2) Within the previous six months, the patient's condition was
17 initially diagnosed by another physician and surgeon, and the
18 physician and surgeon has knowledge that the prior physician
19 and surgeon either determined that a report was not required
20 under this chapter, or made a report to the department, unless
21 there is substantial medical evidence that the condition has
22 substantially changed and the condition may adversely affect the
23 person's ability to drive.

24 (3) The physician and surgeon making the initial diagnosis,
25 relying on substantial medical evidence, determines either of the
26 following occurs:

27 (A) That the disorder can and likely will be controlled and
28 stabilized within 30 days of the initial diagnosis by medication,
29 therapy, surgery, a restriction on activities, or devices, and the
30 treatment has been prescribed, administered or referred.

31 (B) That the patient's condition during the 30-day period does
32 not pose an undue risk to public safety while operating a motor
33 vehicle.

34 (c) A physician and surgeon shall not be civilly or criminally
35 liable to the reported patient for making any report required or
36 authorized by this section.

37 (d) For purposes of this section, "disorders characterized by
38 lapses of consciousness" means those disorders provided for in
39 Section 2806 of Title 17 of the California Code of Regulations.

1 ~~SEC. 2.— Article 6 (commencing with Section 13010) is added~~
2 ~~to Chapter 1 of Division 6 of the Vehicle Code, to read:~~

3
4 ~~Article 6. Physician and Surgeon Reporting of Medical~~
5 ~~Conditions~~
6

7 ~~13010. Except as provided in Section 13011, every physician~~
8 ~~and surgeon may in good faith report to the department in~~
9 ~~writing, the name, date of birth, and address of every patient at~~
10 ~~least 15 years of age, or 14 years of age if the patient has a~~
11 ~~conditional license, whom the physician and surgeon has~~
12 ~~diagnosed as having suffered a lapse of consciousness or who has~~
13 ~~a disorder or another medical condition that may affect the~~
14 ~~patient's ability to drive safely.~~

15 ~~13011. Every physician and surgeon shall report immediately~~
16 ~~to the department, in writing, both of the following:~~

17 ~~(a) The name, date of birth, and address of every patient at~~
18 ~~least 15 years of age, or 14 years of age if the patient has a~~
19 ~~conditional license, whom the physician and surgeon has~~
20 ~~diagnosed with Alzheimer's disease or another dementia~~
21 ~~disorder.~~

22 ~~(b) The name, date of birth, and address of every patient at~~
23 ~~least 15 years of age, or 14 years of age if the patient has a~~
24 ~~conditional license, who has been diagnosed as having a case of~~
25 ~~a disorder characterized by lapses of consciousness that may be~~
26 ~~recurrent or who suffers from an impairment or disorder that~~
27 ~~compromises the patient's ability to safely operate a motor~~
28 ~~vehicle. However, the physician and surgeon is not required to~~
29 ~~report that patient immediately if all of the following conditions~~
30 ~~are met:~~

31 ~~(1) The physician and surgeon, relying on substantial medical~~
32 ~~evidence, determines that the impairment or disorder can be~~
33 ~~controlled and stabilized within 30 days of the initial diagnosis~~
34 ~~by medication, therapy, surgery, or adaptive devices.~~

35 ~~(2) The physician and surgeon intends to prescribe, administer,~~
36 ~~or oversee the necessary treatment.~~

37 ~~(3) The patient's condition during the 30-day period does not~~
38 ~~pose a risk to public safety while operating a motor vehicle.~~

39 ~~(c) If at any time in the 30-day period the physician and~~
40 ~~surgeon determines that the patient poses an imminent risk to~~

1 ~~public safety while operating a motor vehicle, or, if the patient's~~
2 ~~impairment or disorder has not been controlled and stabilized at~~
3 ~~the conclusion of the 30 days, the physician and surgeon shall~~
4 ~~report the patient immediately to the department.~~

5 ~~13012. A report made pursuant to this article shall be for the~~
6 ~~information of the department in enforcing this code, and shall be~~
7 ~~kept confidential and used solely for the purpose of determining~~
8 ~~the eligibility of any person to operate a motor vehicle on the~~
9 ~~highways of this state.~~

10 ~~13013. The State Department of Health Services, in~~
11 ~~cooperation with the department, shall define disorders~~
12 ~~characterized by lapses of consciousness based upon existing~~
13 ~~clinical standards for that definition for purposes of this article~~
14 ~~and shall include Alzheimer's disease and those related disorders~~
15 ~~that are severe enough to be likely to impair a person's ability to~~
16 ~~operate a motor vehicle in the definition. The State Department~~
17 ~~of Health Services, in cooperation with the department, shall list~~
18 ~~those circumstances that shall not require reporting pursuant to~~
19 ~~Section 13011 because the patient is unable to ever operate a~~
20 ~~motor vehicle or is otherwise unlikely to represent a danger that~~
21 ~~requires reporting. As it deems necessary, the department shall~~
22 ~~consult with professional medical organizations whose members~~
23 ~~have specific expertise in the diagnosis and treatment of those~~
24 ~~disorders in reviewing and updating the definition of what~~
25 ~~constitutes a disorder characterized by lapses of consciousness as~~
26 ~~well as definitions of functional severity to guide reporting so~~
27 ~~that diagnosed cases reported pursuant to this article are only~~
28 ~~those where there is reason to believe that the patients'~~
29 ~~conditions are likely to impair their ability to operate a motor~~
30 ~~vehicle.~~

31 ~~13014. As it deems necessary, the department, in consultation~~
32 ~~with the professional medical organizations specified in Section~~
33 ~~13013, shall review and update its guidelines for enhancing the~~
34 ~~monitoring of patients afflicted with disorders referred to in this~~
35 ~~article in order to assist with the patients' compliance with~~
36 ~~restrictions imposed by the department on the patients' licenses~~
37 ~~to operate a motor vehicle.~~

38 ~~13015. A physician and surgeon who reports a patient to the~~
39 ~~department pursuant to this article shall not be civilly or~~

1 ~~criminally liable to any patient for making a report required by~~
2 ~~this article.~~

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